

REMARKS

Applicant has carefully studied the outstanding Office Action in the present application. The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Application as examined included claims 1-136. Applicant has amended claims 1, 30, 69 and 98.

Claims 1, 3, 6-7, 9-10, 30, 32, 35-36, 38-39, 42, 59-69, 71, 74-75, 77-78, 98, 100, 103-104, 106-107 and 127-136 stand rejected under 35 U.S.C. 102(e) as being anticipated by Tabuchi et al (U.S. 2004/0078399). Claims 2, 4-5, 8, 11-29, 31, 33-34, 37, 40-41, 43-58, 70, 72-73, 76, 79-97, 99, 101-102, 105 and 108-126 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tabuchi in view of Kern (U.S. 6,463,501).

Tabuchi et al describes a data duplicating system and method. Kern describes a system, method and program for maintaining data consistency among updates to data storage areas.

Applicant has amended claims 1, 30, 69 and 98 to more clearly recite that the data is stored on the permanent storage device before the re-ordering, as suggested by the Examiner of page 58 of the Official Action.

Support for the amendments to the claims is found in Fig. 10B, step 218 and in paragraph 100 of the application as filed, which corresponds to paragraph 102 of the application as published.

Applicant respectfully submits that the prior art of Tabuchi does not show or suggest the data backup and recovery system and method of amended claims 1, 30, 69 and 98 as explained hereinbelow.

Applicant respectfully submits that the data backup and recovery system and method of the present invention, as recited in claims 1 and 69, includes at least one data recovery device and at least one data recovery storage device including a permanent storage component ... for storing data on the permanent storage component of the at least one data recovery storage device in a manner which enables reconstruction of a complete sequence of data communications ... and enables reconstruction of a representation of the data communications at a given earlier time but does not require that the data be sent to the at least one data recovery device in a given order and stored on the permanent storage component of the at least one data recovery storage device in a given order before re-ordering the data.

As describes further hereinbelow, the prior art of Tabuchi requires data to be sent to data recovery storage devices comprising permanent storage in a specific order and stored in a specific order on the data recovery storage devices comprising permanent storage. Therefore, Tabuchi does not show or suggest a system and method as recited in claims 1 and 69.

Applicant further submits that Tabuchi does not show or suggest a data backup and recovery system including at least one data recovery device and at least one data recovery storage device comprising a permanent storage component ... being operative to receive at least control information and to store data on said permanent storage component of said at least one data recovery storage device in parallel and not requiring that the data be received by the at least one data recovery device in a given order before re-ordering the data, as recited in claim 30.

Applicant further submits that Tabuchi does not show or suggest a data backup and recovery method including providing at least one data recovery device and at least one data recovery storage device comprising a permanent storage component ... receiving at least control information ... and storing said data on said permanent storage component of said at least one data recovery storage device in parallel and without requiring that the data be received by said permanent storage component of said at least one data recovery storage device in a given order before re-ordering the data, as recited in claim 98.

As discussed hereinabove, none of the prior art, either alone or in combination, shows or suggests the claimed subject matter of amended claims 1, 30, 69 and 98. Claims 1, 30, 69 and 98 are therefore deemed to be allowable.

Claims 2-29 and 59-68 depend from claim 1 and recite additional patentable matter and are therefore deemed allowable. Claims 31-58 depend from claim 30 and recite additional patentable matter and are therefore deemed allowable. Claims 70-97 and 127-136 depend from claim 69 and recite additional patentable matter and are therefore deemed allowable. Claims 99-126 depend from claim 98 and recite additional patentable matter and are therefore deemed allowable.

In view of the foregoing, all of the claims are deemed to be allowable. Favorable reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,


JULIAN H. COHEN
c/o Ladas & Parry LLP
26 West 61st Street
New York, New York 10023
Reg. No. 20302
Tel. No. (212) 708-1887